

MUNOFS IV Research Report

Forum: General Assembly, First Committee

Issue: The Malaysia-Sabah-Philippines Dispute

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Introduction

Borneo is the third largest island on the globe and the largest in Asia. Its territory is divided between three countries, Indonesia, Malaysia and Brunei. Indonesia owns a majority of the island, while Malaysia owns roughly 26% of the island. Brunei is a small nation on Borneo's north coast, which takes up 1% of the island.

Sabah, in North Borneo, is the key area of this issue. It is now a state of the Federation of Malaysia. Prior to the turning of the first millennium, ancient seafarers from China, India and Japan traded goods and conducted businesses on Borneo, and cities grew on its western coasts. In 1865, the United States obtained a lease to control the area for a decade, but as the American Civil War ended, interest in the colony was abandoned, and British agents obtained control from the Sultan of Brunei, and created the North Borneo Charter Company to commence development and organization of the area. In 1888, North Borneo became a protectorate of the United Kingdom.

In 1941, Japanese military forces occupied the island, and were driven off by Australian soldiers at the war's end. Following the war, North Borneo became a crown colony of the United Kingdom until 1963, when its citizens voted to join the newly-created Federation of Malaysia.

The territory of North Borneo, now known as Sabah as a state of Malaysia, is currently under dispute between the Republic of the Philippines and the Federation of Malaysia. The government of the Philippines stakes a claim that it is the successor state of the Sultanate, and should have inherited ownership and sovereignty over North Borneo. Their claim is justified by the fact that the Sultanate simply granted a land lease to the North Borneo Charter Company, and that he never surrendered his sovereignty of the area. Malaysia claims that the citizens of North Borneo had a right of self-determination, and they willingly chose to join the Federation of Malaysia in 1963, placing them under the sovereignty of Malaysia.

Key Terms Defined

North Borneo: The northernmost part of the island of Borneo, which is now known as the state of

Sabah.

Sabah: A state of the Federation of Malaysia in East Malaysia, located on the northern coast of the island of Borneo. In 1963, its residents exercised their right of self-determination when they voted to join the Federation of Malaysia upon its establishment. Rule of the region is presently under dispute between the Federation and the Republic of the Philippines.

Sultan of Brunei: The ruler of Brunei who granted the Sultanate of Sulu ownership of North Borneo for quelling a local civil war.

Sultanate of Sulu: The ruler who originally leased North Borneo to the British. Having died with no direct descendants, his heirs now hold the claim through the Philippine government to the area.

North Borneo Charter Company: A now-defunct organization created to manage and execute administrative duties on behalf of the government of the United Kingdom during the area's time as a protectorate.

Federation of Malaysia: A sovereign state which was formed by Malaya, Sarawak, Sabah and Singapore in 1963.

The Republic of the Philippines: A sovereign state to the east of the South China Sea, which stakes a claim of state succession to the area of North Borneo, to guarantee the continuity of government from the rule of the Sultanate of Sulu.

Lease: When an entity turns over temporary control of an asset in return for a regular payment.

Self-determination: The right for people to democratically choose which government to pledge their allegiance to and therefore which government to be under the control of.

General Overview of the Topic

The region of North Borneo, presently known as Sabah as a state of the Federation of Malaysia, has its rule under dispute by two nations. These are the Republic of the Philippines and the Malaysian Federation. The Philippines stakes an ownership claim to the region, while Malaysia seeks to retain it.

The rule of Sabah has been transferred between several entities and nations during its history. It was first under the rule of the Sultan of Brunei, but he turned it over to the Sultanate of Sulu in gratitude for stopping a civil war in the region. Under the rule of the Sultanate, Sabah flourished until the latter half of the nineteenth century. In 1865, the Americans obtained a ten-year lease of the area from the Sultanate of Sulu.

Upon the conclusion of the American Civil War, the postwar government had little interest in the overseas

colony and so sold their land rights to a member of the British government, who lobbied to have the lease extended. The Sultanate of Sulu recognized the change-of-hands of the lease, and in 1888, North Borneo became a protectorate of the United Kingdom. Under the administration of the North Borneo Charter Company, the area continued its existing business and community.

During the Second World War, Japanese forces occupied the area before being defeated by Australian troops at the war's end. Following that, North Borneo became a crown colony of the United Kingdom.

Due to the United Kingdom's economic devastation from the war, her empire quickly disintegrated, granting Canada, Australia, New Zealand, Singapore and many other dominions their independence. In 1963, North Borneo, now known as Sabah, voted to join the newly-created Federation of Malaysia. Prior to that, however, the heirs of the Sultanate of Sulu staked a claim to be restored sovereignty over North Borneo. When Sabah joined the Federation, the Sultanate's heirs transferred propriety of the claim to the government of the Philippines, who in turn exercised the claim. Malaysia then signed the Manila Agreement, officially recognizing the claim, in accordance with the United Nations General Assembly Resolution 1541 XV, adopted three years earlier, which involved the principle of self-determination in compliance with decolonization. According to the Accord, the Philippines would continue to assert its claim but Malaysia would only relinquish control if the claim is fully justified. The issue would continue to be solved by peaceful means, including diplomacy and negotiation. Upon exhausting all peaceful means, the Sultanate of Sulu or his heirs would be free to use "all other means." As of 2013, the Malaysian government still delivers an annual payment to the Philippines for Sabah.

In early 2013, a large group of over two hundred Filipino militants, who acted in the interest of the Sultanate of Sulu, landed in Sabah. They were armed with weapons. They had arrived to physically stake their claim to Sabah, and after a fatal firefight which killed sixty persons, they were routed. This is the first and so far only conflict in the dispute involving lethal force.

Major Parties Involved and Their Views

The Federation of Malaysia

Malaysia is one of the two major parties involved in this dispute. Malaysia seeks to retain control of North Borneo. Sabah is a state in East Malaysia, and Malaysia has a right to exercise its sovereignty in keeping

the region. When the Federation was formed in 1963, the residents of Sabah were given a choice of self-determination, and a majority of them chose to join the Federation, placing them under the rule of the Malaysian government. Shortly after the formation of the Federation, Malaysia signed the Manila Accord, recognizing the Philippines' claim to the area, but will not relinquish rule of the area until the claim can be fully justified.

The Republic of The Philippines

The Philippines stakes a claim to the region of North Borneo as well. The Sultanate of Sulu acquired the land rights of North Borneo after assisting the Sultan of Brunei in quelling a local civil war. The Sultanate of Sulu subsequently leased the territory to the British North Borneo Charter Company, which paid 5,000 Malaysian Ringgit (MYR) annually. However, the Sultanate died without leaving any immediate descendants. His estate was represented by the Kiram Corporation, which continued to receive the annual payments. His heirs subsequently transferred the claim to the government of the Philippines, and a stipulation was made stating that "should the Republic fail to recover North Borneo after exhausting all peaceful means, then the transfer document shall ipso facto become null and void and the Sultan of Sulu shall be free to assert his sovereignty by other means." (Marvin Bionat, The Philippine Claim to Sabah: Is It Time For a War Dance?) It is assumed that the statement "by other means," having "exhausted all peaceful means," may very well mean armed conflict. In 1963, after the formation of the Federation, Malaysia signed the Manila Accord, officially recognizing the Philippines' claim to North Borneo. The Philippines would continue to pursue its claim, which would ultimately decide the status of Sabah being part of the Malaysian Federation(as the claim is not fully justified, Sabah continues to be a part of Malaysia). The Philippines' claim basically includes the fact that upon gaining independence from the United Kingdom, Malaysia only gained non-sovereign rights to Sabah from the North Borneo Charter Company, and that they do not hold complete sovereignty over the area. In addition, in 1882, British Foreign Minister Lord Earl Granville said "the Crown in this present case assumes no dominion or sovereignty over the territories occupied by the (British North Borneo Company), nor does it purport to grant to the Company any powers of Government thereover; it merely recognizes the grants of territory and the powers of government made and delegated by the Sultans in whom the sovereignty remains vested."(Marvin Bionat, The Philippine Claim to Sabah: Is It Time For a War Dance?) In this sense, the Philippines believes that sovereignty of the area still belongs to the Sultanate- whose claim they are exercising.

Timeline of Events

1658- the Sultanate of Sulu acquires North Borneo from the Sultan of Brunei in gratitude for quelling a civil war in the area.

1865- an American diplomat secures a ten-year lease from the Sultanate of Sulu. Later that year, the American Civil War ends and the American government sells its lease to a member of the British government.

1882- The North Borneo Charter Company is founded to handle administration in North Borneo.

1888- North Borneo becomes a protectorate of the United Kingdom.

1941- Japanese forces conquer and occupy North Borneo.

1945- Australian forces defeat the Japanese occupation forces and drive them off the island. North Borneo is returned to British rule, having become a crown colony of the Empire.

1963- The citizens of North Borneo, now known as Sabah, exercise their right of self-determination by choosing to join the soon-to-be created Federation of Malaysia.

1963- The heirs of the Sultanate of Sulu stake their claim for sovereignty to North Borneo.

1963- The Federation of Malaysia is formally established, with the unification of Malaya, Singapore, Sarawak and Sabah.

1963- In the aftermath of the establishment of the Federation, the Sultanate's heirs transferred propriety of their claim to the government of the Republic of the Philippines.

1963, July 11th- The Philippines, Malaysia and Indonesia sign the Manila Accord, which officially recognizes the Philippines' claim to Sabah. As per the treaty, the sovereignty of Sabah would be determined by the Philippines' claim to Sabah, which would continue to be pursued. Since it has not been justified, Malaysia retains control of the region.

2013- 235 armed militants, originating from the Southern Philippines, made landfall in Sabah and a standoff with Malaysian security forces followed. During the subsequent skirmish, 60 individuals were killed; fifty-two of them Sulu militants and eight of them Malaysian police officers. This is the largest armed conflict in the dispute so far, but hostilities have not swelled so far.

Recent Actions Taken by the United Nations

15th December 1960- The United Nations General Assembly adopts Resolution 1541 XV, which affirmed the importance of complete compliance with the principle of self-determination during the process of decolonization.

2013- In response to the incursion in Sabah by Sulu militants, United Nations Secretary-General Ban Ki-Moon called for an immediate peaceful response.

Possible Solutions

- This issue is rather stagnant. There has been little action to take on this issue. The best thing for delegates to do now would be to rely on negotiation and diplomatic discussions. The Manila Accord implores both involved parties to continue to use these diplomatic means to achieve a peaceful solution to this issue. Delegates are reminded that armed conflict should be the very last action taken, if taken at all.
- The Sultanate of Sulu has heirs which still represent his estate. The Manila Accord allows the Philippines to continue their claim. The issue is still not justified yet, so one solution would be to continue discussions with the Sultanate's estate.
- Delegates are reminded that members of the Sulu Royal Army have sparked violence in Sabah earlier in 2013. They originate from the Southern Philippines, and have taken the Sultanate's claim into force. Malaysian security forces have fought several small skirmishes with these rebels. The situation is tense, but both parties still continue to focus on diplomatic solutions, despite Malaysia's refusal for a ceasefire. In either case, it is wise to strengthen security in Sabah until the dispute is formally resolved.

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